



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE BOARD OF NURSING
FOR THE STATE OF TEXAS

In the Matter of
RUSSELL PAUL GIBSON
PETITIONER for Eligibility for
Licensure

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ORDER OF
CONDITIONAL ELIGIBILITY

On the date entered below, the Texas Board of Nursing, hereinafter referred Board, considered the Petition for Declaratory Order and supporting documents filed by RUSSELL PAUL GIBSON, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and PETITIONER's Certificate contained herein. Information received by the Board produced evidence that PETITIONER may be ineligible for licensure pursuant to the Occupations Code 301.452(b).

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on May 26, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. On or about February 25, 2009, the Board received a Petition for Declaratory Order submitted by Petitioner requesting a determination of eligibility for licensure in compliance with Section 301.252 and 301.257, of the Texas Occupations Code and the Board's Rules at 22 Texas Administrative Code Sections 213.30 and 217.2.
2. Petitioner waived notice, administrative hearing, and judicial review.
3. Petitioner graduated with a Baccalaureate Degree in Nursing from the University of Texas at El Paso, El Paso, Texas, on August 5, 2008.
4. On or about February 25, 2009, Petitioner completed the Petition for Declaratory Order and answered "Yes" to the question: *"Have you been convicted, adjudged guilty by a court, pled guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved*

arrests (excluding minor traffic violations)? This includes expunged offenses and deferred adjudication with or without prejudice of guilt. Please note that DUI's, DWI's and PI's must be reported and are not considered minor traffic violations. (One time minor in possession (MIP) or minor in consumption (MIC) do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes".)"

5. Petitioner disclosed the following criminal history, to wit:

A. On or about October 6, 1992, Petitioner was arrested by the Carrollton Police Department, for DRIVING UNDER THE INFLUENCE, a misdemeanor offense.

On or about November 23, 1992, Petitioner entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a misdemeanor offense committed on October 6, 1992), in the County Court at Law of Dallas County, Texas, under Cause No. MB-9221972. As a result of the conviction, Petitioner was sentenced to confinement in the Dallas County Jail for a period of ninety (90) days; however, the imposition of sentence of confinement was suspended and Petitioner was placed on probation for twenty-four (24) months.

B. On or about January 23, 1997, Petitioner was arrested in Ada County, Idaho, for Count I - CONTROLLED SUBSTANCE POSSESSION, a felony offense, Count II - POSSESSION OF DRUG PARAPHERNALIA, a misdemeanor offense, Count III - POSSESSION OF MARIJUANA, a misdemeanor offense, Count IV - DRIVING ON A SUSPENDED LICENSE, a misdemeanor offense.

On or about April 30, 1997, Petitioner entered a plea of Guilty and was convicted of Count II - POSSESSION OF DRUG PARAPHERNALIA (a misdemeanor offense committed on January 23, 1997), in the 4th Judicial District Court of Ada County, Idaho, under Cause No. M9700903. As a result, Petitioner was sentenced to confinement in the Ada County Jail for a period of one hundred eighty (180) days (with one hundred seventy-five (175) days of confinement suspended and one (1) day credit given for time served), sentence of confinement to run concurrently with Counts III and IV. In addition, Petitioner was placed on probation for a period of two (2) years and ordered to pay a fine and court costs.

On or about April 30, 1997, Petitioner entered a plea of Guilty and was convicted of Count III - POSSESSION OF MARIJUANA (a misdemeanor offense committed on January 23, 1997), in the 4th Judicial District Court of Ada County, Idaho, under Cause No. M9700903. As a result, Petitioner was sentenced to confinement in the Ada County Jail for a period of one hundred eighty (180) days (with one hundred seventy-five (175) days of confinement suspended), sentence of confinement to run concurrently with Counts II and IV. In addition, Petitioner was placed on probation for a period of two (2) years and ordered to pay a fine and court costs and complete sixteen (16) hours of outpatient treatment.

On or about April 30, 1997, Petitioner entered a plea of Guilty and was convicted of Count IV - DRIVING ON A SUSPENDED LICENSE (a misdemeanor offense committed on January 23, 1997), in the 4th Judicial District Court of Ada County, Idaho, under Cause No. M9700903. As a result, Petitioner was sentenced to confinement in the Ada County Jail for a period of thirty (30) days (with twenty-eight (28) days of confinement suspended), sentence of confinement to run concurrently with Counts II and III. In addition, Petitioner was placed on probation for a period of two (2) years and ordered to pay a fine and court costs.

On or about April 30, 1997, Count I - CONTROLLED SUBSTANCE POSSESSION (a felony offense committed on January 23, 1997), was dismissed in the 4th Judicial District Court of Ada County, Idaho, under Cause No. M9700903.

- C. On or about March 21, 2003, Petitioner was arrested by the Las Cruces Police Department, Las Cruces, New Mexico, for DRIVING WHILE INTOXICATED, a misdemeanor offense.

On or about October 9, 2003, Petitioner entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a misdemeanor offense committed on March 21, 2003), in the Municipal Court of Las Cruces, New Mexico, under Cause No. 2003-0004606-DU. As a result, Petitioner was sentenced to confinement in the Dona Ana Detention Center for a period of one hundred seventy-nine (179) days (with one hundred seventy-five (175) days of confinement suspended), beginning on July 19, 2004 with release on July 22, 2004. In addition, Petitioner was placed on probation for a period of one (1) year to be completed by July 12, 2005. Petitioner was discharged from probation on June 29, 2005.

6. There is no evidence of any subsequent criminal conduct.
7. On or about April 14, 2010, Petitioner was seen by Dusty L Humes, Ph.D., to undergo a forensic psychological evaluation to include a chemical dependency component and a polygraph examination. Petitioner clearly has significant history of problematic drinking and marijuana use, and has had legal problems as a result. Petitioner states he discontinued all use of illicit drugs in 2001 or 2002, but continues to drink. As to the question of whether Petitioner has the necessary good character to conform his behavior to the requirements of the Nursing Practice Act, the Board's rules and regulations, and generally accepted standards of nursing practice including honesty, integrity, accountability, reliability, and trustworthiness, there is no indication that he does not have the qualities necessary for professional practice. All of his arrests have been related to either his use of marijuana or excessive drinking, and if, he is able to abstain from use of all illicit substances, and can keep his alcohol use to a minimum, then he should be able to adhere to the requirements of conduct set out in the Texas Administrative Code Title 22 detailing the Standards of Nursing Practice. However, if he is unable to accomplish this, then there is a heightened risk of subsequent problems.

8. Licensure of Petitioner poses no direct threat to the health and safety of patients or the public, provided Petitioner complies with the stipulations outlined in this Order.
9. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of the information provided by Petitioner.
10. Petitioner has sworn that his past behavior conforms to the Board's professional character requirements. Petitioner presented no evidence of behavior which is inconsistent with good professional character.
11. Petitioner has been advised that any information found to be incomplete, incorrect, or misleading will be considered and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through misrepresentation.
12. On May 26, 2010, the Executive Director considered evidence of Applicant's past behavior in light of the character factors set out in 22 Texas Administrative Code §213.27 and determined that Applicant currently demonstrates the criteria required for good professional character.

CONCLUSIONS OF LAW

1. The Texas Board of Nursing has jurisdiction over this matter pursuant to Section 301.453, Texas Occupations Code.
2. Petitioner has submitted an Application for Licensure by Examination requesting a determination of eligibility for licensure in compliance with Section 301.252 and 301.257, of the Texas Occupations Code and the Board's Rules at 22 Texas Administrative Code Sections 213.30 and 217.2.
3. Petitioner's criminal history reflects criminal conduct which constitutes grounds for denial of a license under Section 301.452(b), Texas Occupations Code.
4. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.
5. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 Texas Administrative Code §213.28 and evaluating the direct relationship to nursing according to Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
6. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 Texas Administrative Code

§213.27, the Board is satisfied that the individual is able to consistently conform to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

ORDER

NOW, THEREFORE, IT IS ORDERED that upon meeting the requirements for graduation and payment of any required fees, RUSSELL PAUL GIBSON, PETITIONER, is CONDITIONALLY ELIGIBLE to sit for the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). PETITIONER SHALL NOT be eligible for temporary authorization to practice as a Graduate Nurse in the State of Texas.

IT IS FURTHER ORDERED that PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.*, and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to APPLICANT's multistate licensure privilege, if any, to practice professional nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while APPLICANT's license is encumbered by this Order the PETITIONER may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where PETITIONER wishes to work.

IT IS FURTHER ORDERED that PETITIONER, upon attaining a passing grade on the NCLEX-RN®, shall be issued a license to practice nursing in the State of Texas which shall bear the appropriate notation and PETITIONER SHALL be subject to the following stipulations.

(1) PETITIONER SHALL, within one (1) year of initial licensure in the State of Texas, successfully complete a course in Texas nursing jurisprudence and ethics. PETITIONER SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. PETITIONER SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify PETITIONER'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>.*

IT IS FURTHER AGREED, SHOULD PETITIONER PRACTICE AS A REGISTERED NURSE IN THE STATE OF TEXAS, PETITIONER WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND APPLICANT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED.

PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(2) PETITIONER SHALL notify each present employer in nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER SHALL present a complete copy of this Order if any, to each present employer within five (5) days of receipt of this Order. PETITIONER SHALL notify all future employers in nursing of this Order of the Board and the stipulations on PETITIONER'S license. PETITIONER SHALL present a complete copy of this Order to each future employer prior to accepting an offer of employment.

(3) PETITIONER SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Petitioner by the Board, to the Board's office within five (5) days of employment as a nurse.

(4) PETITIONER SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Petitioner is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(5) PETITIONER SHALL CAUSE each employer to submit, on forms provided to the Petitioner by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the PETITIONER. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for one (2) years of employment as a nurse.

(6) PETITIONER SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, PETITIONER SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and PETITIONER SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(7) PETITIONER SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines

Meperidine

Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the PETITIONER'S place of employment at any time during the stipulation period and require PETITIONER to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. PETITIONER SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, PETITIONER SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice professional nursing in the State of Texas.

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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past criminal conduct, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my Petition for Declaratory Order, has been in conformity with the Board's professional character rule. I have provided the Board with complete and accurate documentation of my past behavior in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application, I acknowledge that I have read and I understand Section 301.257, Texas Occupations Code, Section 301.452(a), (b) and (c), Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and Board Rules 213.27, 213.28, and 213.29 at 22 Texas Administrative Code. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Graduate Nurse Permit to practice. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to registering for the NCLEX-RN® Examination or accepting any permit or license from the Texas Board of Nursing.

I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Executive Director of the Texas Board of Nursing enter this Order.

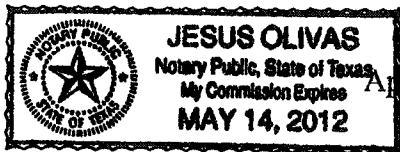
Signed this 6th day of July, 2010.

Russell Paul Gibson
RUSSELL PAUL GIBSON, PETITIONER

Sworn to and subscribed before me this 6th day of July, 2010.

Jesus Olivas
Notary Public in and for the State of TX

SEAL



Approved as to form and substance.

[Signature]
Dan Lype, Attorney for Petitioner

Signed this 9 day of July, 2010.

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Order of Conditional Eligibility that was signed on the 6th day of July, 2010, by RUSSELL PAUL GIBSON, PETITIONER, for Licensure by Examination, and said Order is final.

Entered this 17th day of August, 2010.

BOARD OF NURSING
FOR THE STATE OF TEXAS



By: Katherine A. Thomas, MN, RN
Executive Director
on behalf of said Board